

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION**

JAAFAR ALAMILI,)	
)	
Plaintiff,)	Case No:
)	FILED: MAY 13, 2008
v.)	08CV2768 LCW
)	JUDGE ANDERSEN
)	Judge: MAGISTRATE JUDGE MASON
RUTH A. DOROCHOFF, in her official)	
capacity as District Director of United)	Magistrate Judge:
States Citizenship and Immigration)	
Services,)	
)	
Defendant.)	

**COMPLAINT FOR WRIT OF MANDAMUS AND
NATURALIZATION HEARING UNDER 8 U.S.C. § 1447(b)**

Plaintiff Jaafar Alamili (“Plaintiff”), by and through his attorneys, the Law Offices of Kameli & Associates, P.C., respectfully requests an order directing Defendant Ruth A. Dorochoff (“Defendant”) to adjudicate Plaintiff’s Form N-400 Application for Naturalization (“N-400”), or alternatively , a naturalization hearing pursuant 8 U.S.C. § 1447(b). In support of said request, Plaintiff states as follows:

JURISDICTION AND VENUE

1. This is a civil action brought pursuant to 28 U.S.C. § 1361 to redress the deprivation of rights, privileges and immunities secured to Plaintiff, and to compel Defendant, an officer of United States to perform her duties owed to Plaintiff. Jurisdiction is proper pursuant to 28 U.S.C. § 1331, which states “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Since this Court is a district court, and the action arises under 28 U.S.C. § 1361, a law of the United States, this Court is conferred jurisdiction of this civil action. Additionally, the

Administrative Procedure Act permits judicial review of agency action “unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1); 5 U.S.C. § 701 et seq. Finally, jurisdiction is conferred upon this Court under 8 U.S.C. § 1447(b).

2. Venue is proper under 28 U.S.C. §§ 1391(b) and (e), since Defendant is acting in her official capacity as the local District Director of United States of Citizenship and Immigration Services (“USCIS”), a division of the Department of Homeland Security (“DHS”), an agency of the United States Government, located in Chicago, Illinois and Plaintiff filed his N-400 with the Chicago, Illinois USCIS office.

PARTIES

3. Plaintiff is a legal permanent resident of the United States, currently residing in Chicago, Illinois. Plaintiff’s alien number is A 79-817-248.

4. Defendant is the Chicago, Illinois District Director of USCIS, a sub-agency of the DHS. As such, Defendant is charged with the administration and enforcement of all the functions, powers, and duties of the Chicago Office of USCIS.

CLAIMS FOR RELIEF

5. Plaintiff filed his N-400 with the Chicago Office of USCIS on June 5, 2006. See Exhibit A.

6. On November 6, 2006, Plaintiff attended an interview in furtherance of his N-400. At that time, a USCIS officer informed Plaintiff that although Plaintiff had passed the English and U.S. history and government tests, a decision could not be made on Plaintiff’s N-400 at that time. See Exhibit B.

7. Upon Plaintiff's information and belief, Plaintiff's N-400 has not been adjudicated. To date, approximately two years have passed since Plaintiff filed his N-400, and over 18 months have passed since Plaintiff's N-400 interview. Exhibits A and B.

8. 8 U.S.C. § 1447(b) provides:

[i]f there is a failure to make a determination under section 335 [8 USCS § 1446] before the end of the 120-day period after the date on which the examination is conducted under such section, the applicant may apply to the United States district court for the district in which the applicant resides for a hearing on the matter. Such court has jurisdiction over the matter and may either determine the matter or remand the matter, with appropriate instructions, to the Service to determine the matter.

8 U.S.C. § 1447(b). Defendant has far exceeded the statutory 120-day period in which a decision on a naturalization application must be rendered.

9. In addition, 8 C.F.R. § 335.3(a) provides:

[t]he Service officer shall grant the application if the applicant has complied with all requirements for naturalization under this chapter. A decision to grant or deny the application shall be made at the time of the initial examination or within 120-days after the date of the initial examination of the applicant for naturalization under § 335.2. The applicant shall be notified that the application has been granted or denied and, if the application has been granted, of the procedures to be followed for the administration of the oath of allegiance pursuant to part 337 of this chapter.

8 C.F.R. § 335.3(a). Here again, Defendant has far exceeded the 120-day period in which a decision on a naturalization application must be rendered. Moreover, Plaintiff "has complied with all requirements for naturalization" as required under 8 C.F.R. § 335.3(a) and the Immigration and Nationality Act.

10. The regulatory counterpart to 8 U.S.C. § 1447(b) is 8 C.F.R. § 310.5, which provides:

An applicant for naturalization may seek judicial review of a pending application for naturalization in those instances where the Service fails to make a determination under section 335 of the Act within 120 days after an examination

is conducted under part 335 of this chapter. An applicant shall make a proper application for relief to the United States District Court having jurisdiction over the district in which the applicant resides. The court may either determine the issues brought before it on their merits, or remand the matter to the Service with appropriate instructions.

8 C.F.R. § 310.5(a). Again, Defendant has exceeded the statutory time limit provided for adjudication of Plaintiff's naturalization application and thus judicial review is available.

11. The Defendant, in violation of the Administrative Procedure Act, 5 U.S.C. §§ 555, 702, 704, and 706, is unlawfully withholding or unreasonably delaying a decision on Plaintiff's N-400, and has not completed the adjudicative functions delegated to her by the laws of the United States.

12. Due to Defendant's failure to adjudicate Plaintiff's N-400, Defendant stands in violation of 8 U.S.C. § 1447, 8 C.F.R. § 310.5, and 8 C.F.R. § 335.3.

13. Plaintiff has exhausted any administrative remedies that may exist.

WHEREFORE, Plaintiff Jaafar Alamili respectfully requests this Honorable Court grant the following relief:

- A. Hold a hearing on this matter pursuant to 8 U.S.C. § 1447(b) or compel Defendant and those acting under her to perform their duty to rule upon Plaintiff's Form N-400 Application for Naturalization;
- C. Grant Plaintiff attorney's fees and costs of court incurred herein; and
- D. Grant any and all relief this Court deems fair and just.

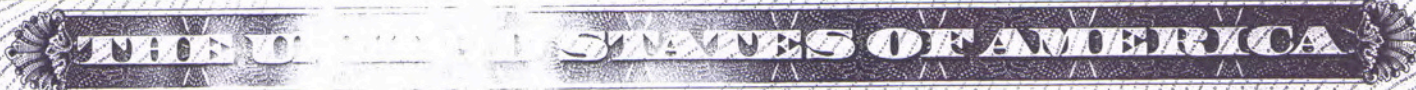
Respectfully submitted,

KAMELI & ASSOCIATES, P.C.

John R. Floss
/s/John R. Floss/

Law Offices of Kameli & Associates, P.C.
111 E. Wacker Drive, Suite 555
Chicago, Illinois 60601
(312) 233 – 1000 – phone
(312) 233 – 1007 – facsimile

Dated: May 13, 2008



08CV2768 LCW

JUDGE ANDERSEN

MAGISTRATE JUDGE MASON

NOTICE DATE
June 14, 2006

Fingerprint Notification

CASE TYPE
N400 Application For NaturalizationINS/A#
A 079,817,248APPLICATION NUMBER
LIN*000916484ESTIMATED DATE
June 05, 2006PRIORITY DATE
June 05, 2006PAGE
1 of 1

APPLICANT NAME AND MAILING ADDRESS

JAAFAR H ALAMILI
2 SOUTH
8250 KEATING
SKOKIE IL 60076

To process your application, INS must take your fingerprints and have them cleared by the FBI. **PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED.** If you are unable to do so, complete the bottom of this notice and return the entire original notice to the address below. **RESCHEDULING YOUR APPOINTMENT WILL DELAY YOUR APPLICATION. IF YOU FAIL TO APPEAR AS SCHEDULED BELOW OR FAIL TO REQUEST RESCHEDULING, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.**

APPLICATION SUPPORT CENTER

CIS BROADWAY
4853 N. BROADWAY
CHICAGO IL 60640

DATE AND TIME OF APPOINTMENT

06/23/2006
10:00 AM**WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR FINGERPRINTS TAKEN, YOU MUST BRING:**

1. **THIS APPOINTMENT NOTICE** and
2. **PHOTO IDENTIFICATION.** Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State issued photo ID. If you appear without proper identification, you will not be fingerprinted.

BIOMETRICS PROCESSING STAMP

PLEASE DISREGARD THIS NOTICE IF YOUR APPLICATION HAS ALREADY BEEN GRANTED.

ON 6-23-06

REQUEST FOR RESCHEDULING

Please reschedule my appointment for the next available: ☒ Wednesday afternoon ☐ Saturday afternoon

INS cannot guarantee the day preferred, but will do so to the extent possible.

Upon receipt of your request, you will be provided a new appointment notice. Please mail your request to:

CIS BROADWAY
4853 N. BROADWAY
CHICAGO IL 60640

If you have any questions regarding this notice, please call 1-800-375-5283.

APPLICANT COPY

APPLICATION NUMBER
LIN*000916484**WARNING!**

Due to limited seating availability in our lobby areas, only persons who are necessary to assist with transport the fingerprint worksheet should accompany you.

EXHIBIT

A

Department of Homeland Security
U.S. Citizenship and Immigration Services

N-652, Naturalization Interview ResultsA#: 079 817248On 11/06/2006, you were interviewed by USCIS officer Feng

- ☒ You passed the tests of English and U.S. history and government.
- ☐ You passed the tests of U.S. history and government and the English language requirement was waived.
- ☐ USCIS has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.
- ☐ You will be given another opportunity to be tested on your ability to _____ speak/ _____ read/ _____ write English.
- ☐ You will be given another opportunity to be tested on your knowledge of U.S. history and government.
- ☐ Please follow the instructions on Form N-14.
- ☒ USCIS will send you a written decision about your application.
- ☐ You did not pass the second and final test of your _____ English ability/ _____ knowledge of U.S. history and government. You will not be rescheduled for another interview for this Form N-400. USCIS will send you a written decision about your application.

A) **Congratulations! Your application has been recommended for approval.** At this time, it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.

B) ☒ **A decision cannot yet be made about your application.**

It is very important that you:

- ☒ Notify USCIS if you change your address.
- ☒ Come to any scheduled interview.
- ☒ Submit all requested documents.
- ☒ Send any questions about this application in writing to the officer named above. Include your full name, Alien Registration Number (A#), and a copy of this paper.
- ☒ Go to any Oath Ceremony that you are scheduled to attend.
- ☒ Notify USCIS as soon as possible in writing if you cannot come to any scheduled interview or Oath Ceremony. Include a copy of this paper and a copy of the scheduling notice.

NOTE: Please be advised that under section 336 of the Immigration and Nationality Act, you have the right to request a hearing before an immigration officer if your application is denied, or before the U.S. district court if USCIS has not made a determination on your application within 120 days of the date of your examination.

EXHIBIT**B**

Form